

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

WAUKESHA COUNTY, WISCONSIN
and WAUKESHA COUNTY DEFERRED
COMPENSATION PLAN,

Plaintiffs,

v.

NATIONWIDE LIFE INSURANCE
COMPANY and NATIONWIDE
RETIREMENT SOLUTIONS, INC.,

Defendants.

ORDER

06-C-0656-C

Plaintiffs Waukesha County, Wisconsin and Waukesha County Deferred Compensation Plan have moved to compel certain discovery from defendants Nationwide Life Insurance Company and Nationwide Retirement Solutions, Inc. Plaintiffs want to depose Robert Longfellow, Director of Management Information of Actuarial for defendant Nationwide Life Insurance Company. Mr. Longfellow was responsible for calculating the market value adjustment applicable to a plan participant's lump sum withdrawal of assets from defendant upon termination of the fixed annuity contract.

Plaintiffs have already had one opportunity to depose Mr. Longfellow. Ordinarily, I would deny their request for an additional opportunity to question him. However, after plaintiffs' brief was filed in opposition to defendants' motion for summary judgment, Mr. Longfellow filed an affidavit in which he made statements highly relevant to the parties' dispute. I believe that plaintiffs should have a brief opportunity to depose Mr. Longfellow on topics discussed in his affidavit. Accordingly, I will grant the request to redepose him for no more than four hours.

Plaintiffs have also moved for discovery of certain information from defendants concerning information provided to other plan sponsors and communications with public employers or plan sponsors regarding calculation of the market value adjustment. Nothing in the request suggests to me that any relevant information would be obtained from this discovery. Therefore, I will deny the motion to compel as it relates to requiring defendants to supplement their response to earlier requests for production or to produce documents.

ORDER

IT IS ORDERED that plaintiffs' motion to compel is GRANTED with respect to the additional deposition of Robert Longfellow; it is DENIED in all other respects. The parties shall bear their own costs.

Entered this 12th day of October, 2007.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge